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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,778	07/02/2003	Jessica Starodoj	Wee Rider	6978
23217	7590	01/25/2005	EXAMINER	
GLENN L. WEBB P.O BOX 951 CONIFER, CO 80433			EDELL, JOSEPH F	
			ART UNIT	PAPER NUMBER
			3636	
DATE MAILED: 01/25/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/613,778

Applicant(s)

STARODOJ ET AL.

Examiner

Joseph F Edell

Art Unit

3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 November 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

1. The drawings were received on 10 November 2004. These drawings are unacceptable.

The drawings are objected to because new Figures 3(a) and 3(b) are not referenced in specification, and numerous indicator lines for reference numerals do not adequately designate their respective structural feature (for example, see references numerals 30,32,40, and 42 of Figures 3(a)). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective

Art Unit: 3636

action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 4, 5, 8, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 2,448,867 to Darden.

Darden discloses a child carrier passenger system that includes all the limitations recited in claims 1, 4, 5, 8, and 10. Darden shows a child carrier passenger system having a frame member 24 (Fig. 6) with a first end and a second end, a child seat 23 (Fig. 6) attached to the frame member, an open-ended yoke 26 (Fig. 6) on the first end, a rear clamp 33,36 (Fig. 6), a vertical swivel 30,34a (Fig. 6), a quick release mechanism 26,36 (Fig. 6) enabling the system to be quickly attached and removed, a foot rest 16 (Fig. 2), and a handlebar system 10 (Fig. 6) wherein the first end of the frame member is *capable* of removable engagement with a bicycle handlebar stem, the second end of the frame member via the rear clamp and vertical swivel is *capable* of removable engagement with a bicycle seat post.

4. Claims 1, 2, 5-9, 13, 14, 16, 17, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,305,532 to Reminger.

Art Unit: 3636

Reminger discloses a child carrier passenger system that includes all the limitations recited in claims 1, 2, 5-9, 13, 14, 16, 17, and 19. Reminger shows a child carrier passenger system having a frame member 22 (Fig. 1) with first and second ends, a child seat 32 (Fig. 1) attached to the frame member, an open-ended yoke 26 (Fig. 1) on the first end, a rear clamp 24 (Fig. 1), a quick release mechanism 24,26 (Fig. 1) enabling the system to be quickly attached and removed, a five point harness system 34 (Fig. 1), and an adjustable footrest 36,40 (Fig. 1) wherein the first end of the frame member is *capable* of removable engagement with a bicycle handlebar stem and the second end of the frame member via the rear clamp is *capable* of removable engagement with a bicycle seat post. The description of the child carrier passenger system inherently discloses the method of using a child passenger system.

5. Claims 1-3, 5, 8, 9, 12-14, 17, 19, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,927,801 to Miree.

Miree discloses a child carrier passenger system that includes all the limitations recited in claims 1-3, 5, 8, 9, 12-14, 17, 19, and 20. Miree shows a child carrier passenger system having a frame member 28,70 (Figs. 1 & 9a) with first and second ends, a child seat 16 (Fig. 3) attached to the frame member, a mechanism 17,19 (Fig. 2) attached to a first end of the frame member and having a U-shaped open end yoke (Fig. 3) with a protective coating 31 (Fig. 3), a rear clamp 32 (Fig. 4) attached to a second end of the frame member, a quick release mechanism 32 (Fig. 4) enabling the system to be quickly attached and removed, an adjustable footrest 41 (Fig. 4), and an adjustable length frame member 70 (Fig. 9a) wherein the first end of the frame member

Art Unit: 3636

is *capable* of removable engagement with a bicycle handlebar stem and the second end of the frame member via the rear clamp is *capable* of removable engagement with a bicycle seat post. The description of the child carrier passenger system inherently discloses the method of using a child passenger system.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Darden in view of U.S. Patent No. 6,173,980 to Newbold et al.

Darden discloses a child carrier passenger system that is basically the same as that recited in claim 11 except that the handlebar system lacks a toy, as recited in the claim. Newbold et al. shows a child seat similar to that of Darden wherein the handle 400 (Fig. 9) is capable of mounting a toy (see column 13, lines 13-14). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the child carrier system of Darden such that the handlebar system has a mounted toy, such as the child seat disclosed in Newbold et al. One would have been motivated to make such a modification in view of the suggestion in Newbold et al. that the handlebar configuration allows for a gripping surface when a child may feel off balance and a surface for attaching toys.

8. Claims 4, 10, 15, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miree in view of Darden.

Miree disclose a child carrier passenger system that is basically the same as that recited in claims 4, 10, 15, and 18 except that the system lack a handle bar system and the rear clamp lacks a vertical swivel, as recited in the claims. Darden shows a child carrier passenger system similar to that of Miree wherein the second end of the frame member has a vertical swivel 30,34a (Fig. 6), and the system has a handle bar system 10 (Fig. 6). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of Miree such that the rear clamp has a vertical swivel and the system has a handle bar system, such as the system disclosed in Darden. One would have been motivated to make such a modification in view of the suggestion in Darden that the handle bar system allows for accommodation of a seated child and the vertical swivel allows the system to be attached to differently shaped bicycle frames.

### ***Response to Arguments***

9. Applicant's arguments filed 10 November 2004 have been fully considered but they are not persuasive. Applicant argues that the frame member of the child carrier passenger system shown in Darden attaches directly to the cross member 7 of the bicycle, as shown in Figure 1. However, the embodiment of Figures 6 and 7 shows a frame member with an open-ended yoke on the first end of the frame member, while the embodiment of Figures 1-5 is not relied upon in the 35 U.S.C. 102(b) rejection of claims

Art Unit: 3636

1, 4, 5, 8, and 10. Next, Applicant argues that Reminger teaches a rear of the frame member merely engaging without clamping the seat post of the bicycle. Amended claim 1 recites a rear clamp. The broadest reasonable interpretation of "a rear clamp" is a rear-oriented device designed to bind or constrict, or to press two or more parts together so as to hold them firmly. The rear clamp 24 of Reminger meets this limitation because the rear clamp binds the second end of the frame member to the seat post. With respect to claim 13, Applicant argues that Reminger fails to teach the step of clamping the attachment to the seat post. However, claim 13 recites "attaching said rear clamp to the seat post of the bicycle", which Reminger clearly teaches. With respect to Applicant's argument that Miree fails to teach an open-end yoke, the broadest reasonable interpretation of "an open-ended yoke" is an open-ended clamp or similar piece that embraces two parts to hold or unite them in position. The yoke of Miree shown in Figure 9b meets this limitation because the yoke is an open-ended clamp that unites the frame member and seat post in position. With respect to the designation of the mechanism as allowing "quick attachment", whether or not the mechanism allows for quick or slow attachment is a relative term. As long as the mechanism allows for attachment acting with speed, then this limitation is met. Applicant's amendment to claims 1-3 and 13 has rendered the 35 U.S.C. 102(b) rejection under Levarek et al. moot.

The rejection under 35 USC 103(a) drawn toward claim 11 was argued solely on the premise that the cited art does not teach or suggest the system defined in amended claim 1, and as a result the above 35 USC 103(a) rejection of claim 11 remains.



Upon consideration of the Applicant's arguments, Examiner maintains the rejections of claims 1-20.

### ***Conclusion***

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (703) 605-1216. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

Art Unit: 3636

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should


you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).



JE

January 18, 2005



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